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PRE-APPEAL BRIEF REQUEST FOR REVIEW		Docket Number (Optional) EQLC-P01-006	
		Application Number 10/762,985	Filed January 21, 2004
		First Named Inventor Koning et al.	
		Art Unit 2157	Examiner S. N. Nano
<p>Applicant requests review of the final rejection in the above-identified application. No amendments are being filed with this request.</p> <p>This request is being filed with a notice of appeal.</p> <p>The review is requested for the reason(s) stated on the attached sheet(s). Note: No more than five (5) pages may be provided.</p> <p>I am the</p> <p><input type="checkbox"/> applicant /inventor.</p> <p><input type="checkbox"/> assignee of record of the entire interest. See 37 CFR 3.71. Statement under 37 CFR 3.73(b) is enclosed. (Form PTO/SB/96)</p> <p><input type="checkbox"/> attorney or agent of record. Registration number _____</p> <p><input checked="" type="checkbox"/> attorney or agent acting under 37 CFR 1.34. Registration number if acting under 37 CFR 1.34. <u>46,698</u></p> <p> _____ Signature Richard M. Feustel, Esq. _____ Typed or printed name (617) 951-7760 _____ Telephone number November 28, 2007 _____ Date</p> <p>NOTE: Signatures of all the inventors or assignees of record of the entire interest or their representative(s) are required. Submit multiple forms if more than one signature is required, see below*.</p> <p><input checked="" type="checkbox"/> *Total of <u>1</u> forms are submitted.</p>			

I hereby certify that this paper (along with any paper referred to as being attached or enclosed) is being deposited with the U.S. Postal Service as Express Mail, Airbill No. EV970403686US, on the date shown below in an envelope addressed to:
MS AF, Commissioner for Patents, P.O. Box 1450, Alexandria, VA 22313-1450Dated: November 28, 2007Signature: 

(Lise Ann Ruggeri)

I hereby certify that this paper (along with any paper referred to as being attached or enclosed) is being deposited with the U.S. Postal Service on the date shown below as Express Mail, Airbill No. EV970403686US, addressed to MS AF, Commissioner for Patents, P.O. Box 1450, Alexandria, VA 22313-1450.

Dated: November 28, 2007

Signature: _____

(Lise Ann Ruggeri)

Docket No.: EQLC-P01-006
(PATENT)

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

Re Patent Application of:
Koning et al.

Application No.: 10/762,985

Confirmation No.: 5999

Filed: January 21, 2004

Art Unit: 2157

For: Client Load Distribution

Examiner: Sargon N. Nano

PRE-APPEAL BRIEF REASONS FOR REVIEW

MS AF
Commissioner for Patents
P.O. Box 1450
Alexandria, VA 22313-1450

Dear Sir:

INTRODUCTORY COMMENTS

In response to the Final Office Action dated August 9, 2007, Applicants request a panel review of the pending rejections prior to proceeding with the full appeals process. Applicants enclose with these remarks the requisite Notice of Appeal and Petition for Extension of time.

The Claims. Applicants' claims are directed to approaches for managing client-server connections in a partitioned-resource storage system. In such a system, a plurality of storage servers has "a set of resources partitioned thereon." That is, portions of a given resource are stored across various storage servers in the system (*see, e.g.,* FIG. 3 and ¶¶ 29 et seq.). The storage servers have respective load monitor processes that communicate with each other to determine a measure of loading for each respective storage server. Responsive to the loading, client connections are moved "from a first server... to a second server." A fuller explanation of applicants' claimed approach is provided in the previous reply.

All claims stand rejected as anticipated under 102(e) by O'Neil et al. U.S. Patent No. 6,128,279. The Examiner has clearly erred in this rejection for at least the following reasons.

First Clear Error. Claim 1 recites a plurality of storage servers "having the set of resources partitioned thereon." The Examiner appears to have overlooked this limitation, as the Examiner provides no support in the rejection for it. Applicants have read O'Neil and cannot find any discussion of a partitioned-resource storage system. For this reason alone the anticipation rejection should be withdrawn.

Second Clear Error. O'Neil does not disclose a process in which client connections are "mov[ed] from a first server... to a second server." The Examiner cites col. 4, lines 1-9, but this portion of O'Neil only says requests are rerouted. Elsewhere O'Neil makes clear that re-routing requests does not involve moving a connection from one server to another, but rather involves redirecting the client to the new server:

In the invention, routing is performed by sending a command from load balancing module 17 to a requestor instructing the requestor to send the request to a designated server. Thus, re-routing is processed automatically by the requestor software and is virtually invisible to the actual Internet user. (7:27-32; see also 8:8:32-33; 8:51-53; 9:2-4.)

Thus, to the extent that the Examiner considers O'Neil to disclose establishing connections at all, the Examiner must conclude that connections are not in fact moved from one server to another – instead, the requestor establishes a new, second connection with a different server.

There is a reason O'Neil does not move established connections. While O'Neil mentions potential applicability of its approach to various server types, it only discloses an embodiment involving World Wide Web servers (see, e.g., 4:62-5:6). As applicant is sure the Examiner is aware, HTTP is a request/response protocol in which "connections" are short lived – they are closed after a single request-response pair. Thus there is no moving of connections. In a partitioned storage system, connections may last much longer and across disparate loading conditions. Therefore, the capability of moving connections from one server to another is desirable and provided by applicants' claimed approach.

Application No. 10/762,985
Amendment dated November 28, 2007
After Final Office Action of August 9, 2007

Docket No. EQLC-P01-006

Conclusion. The foregoing demonstrates clear errors in the rejection. Reconsideration and allowance are respectfully requested.

Applicants believe that all fees due in connection with this submission have been appropriately provided. However, if there are any other fees due in connection with the filing of this response, please charge the fees to Deposit Account No. 18-1945, under Order No EQLC-P01-002 from which the undersigned is authorized to draw.

Dated: November 28, 2007

Respectfully submitted,

By 

Richard M. Feustel, Jr. Esq.

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